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February 19, 2008

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VIA E-MAIL

Honorable Jeffrey White
United States District Court of California, Northern Division
450 Golden Gate Ave.
Courtroom 2, 17th Floor
San Francisco, CA 94102

Re: *Bank of America N.A. v. AIU Insurance Company, et al.*
Case No. 07-04638 JSW

Dear Judge White:

This office represents defendant AIU Insurance Company ("AIU") in the above-captioned matter. I write in response to Ms. Donsavage's February 15, 2008 letter in which she requests, on behalf of her client plaintiff Bank of America ("Bank") a continuance of the mediation currently scheduled for March 3, 2008.

AIU opposes the Bank's request to continue the mediation to conduct additional discovery. The parties agreed to conduct the mediation after a round of written discovery. The Bank served one discovery request, a request for production of documents. AIU served its responses to that request and produced documents on February 15. AIU served interrogatories, requests for admissions and a request for production of documents to the Bank, responses to which are due at the end of the week. AIU does not need additional time to evaluate this material in advance of the mediation. Both sides have produced documents in connection with their initial disclosures.

The Bank wants to continue the mediation so it can take a deposition or depositions. The purpose of early mediation is to attempt to resolve the dispute without incurring significant litigation expenses. This is one reason why AIU agreed to participate in an early mediation after written discovery. If the Bank begins deposition discovery, AIU also will notice depositions and the benefits of early mediation will be lost.

The Bank is the plaintiff in this case and has sued AIU for breach of contract and breach of the implied covenant of good faith and fair dealing. The Bank seeks coverage for a settlement that took place in 2003. Certainly, the Bank has sufficient information in its possession to conduct a meaningful mediation. If any party needed additional time or discovery for mediation, it would be AIU, because AIU was not involved in the settlement of the underlying action. However, AIU has sufficient information to participate meaningfully in mediation and wishes to do so before deposition discovery

begins. Therefore, AIU requests that the Court reject the Bank's request for a continuance.

Thank you for your attention in this matter.

Very truly yours,


Kevin G. McCurdy

KGM/ln

cc: Paulette Donsavage, Esq.
Franklin Dean Thomas, Esq.

PROOF OF SERVICE

Bank of America N.A. v. AIU Insurance Company, AIG Technical Services, Inc., and Does 1-50
United States District Court for the Northern District of California
Case No. C 07-4638 JSW

I am a citizen of the United States. My business address is 4300 Bohannon Drive, Suite 240, Menlo Park, California 94025. I am employed in the county of San Mateo where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

LETTER TO HONORABLE JEFFREY WHITE

Addressed to the following recipients:

Paulette Donsavage, Esq.
 Kaufman & Logan LLP
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(Attorneys for Plaintiff)

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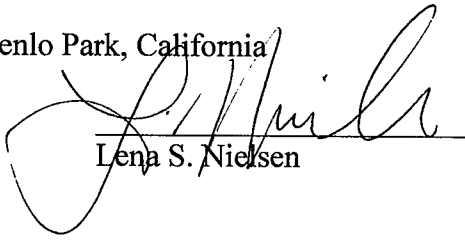
____ (BY PERSONAL SERVICE) I caused such document(s) to be delivered by hand on this date to the offices of the addressee by 5:00 p.m.

X (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.

____ (BY MAIL) I caused such envelope(s) with postage paid thereon fully prepaid to be placed in the United States mail at Menlo Park, California.

X (Federal) I declare under the penalty of perjury under the laws of the United States that the above is true and correct.

Executed on February 19, 2008, at Menlo Park, California


 Lena S. Nielsen

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